IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 13244 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE A.R.DAVE

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

DA MEHTA

Versus

STATE OF GUJARAT

Appearance:

1. Special Civil Application No. 13244 of 2000

MR SHUBHRA ALMOULA for Petitioner No. 1

MR MURALI N DEVNANI for Petitioner No. 1

GOVERNMENT PLEADER for Respondents No. 1-2

NOTICE SERVED BY DS for Respondent No. 2

CORAM : MR.JUSTICE A.R.DAVE

Date of decision: 19/12/2001

ORAL JUDGEMENT

Rule. Service of rule is waived by learned AGP

Shri Abichandani for the respondents.

2. The case of the petitoner is that without affording any hearing or without issuance of any show-cause notice to the petitioner, the salary of the petitioner had been reduced by the respondent authorities and, therefore, this petition has been filed.

3. Learned advocate Ms. Archana Amin appearing for the petitioner has submitted that the petitioner is working in the cadre of Jr. Clerk since 1986. He was given higher pay-scale by an order dated 17.4.1995 and the said higher pay-scale was withdrawn by an order dated 4.12.2000. It has been submitted by her that before withdrawing the said pay-scale, the petitioner was never heard. It has been submitted by her that as the impugned order dated 4.12.2000 was passed in violation of the principles of natural justice, the said order should be quashed and set aside.

4. Learned AGP Shri Abichandani has appeared for the respondent authorities and has submitted that the petitioner was given higher pay-scale because of some mistake. As and when the mistake was revealed by the concerned authority, it was decided to withdraw the additional benefit, which was given to the petitioner and, therefore, by an order dated 4.12.2000, the petitioner was placed in the lower pay-scale. It has been submitted by him that as per the policy of the government, the petitioenr was not required to be heard because the petitioner was given higher pay-scale due to mistake.

5. I have heard the learned advocates and have perused the relevant papers pertaining to the case. It is not in dispute that the petitioner was not heard before his pay-scale was reduced. As per the principles of natural justice, the petitioner ought to have been heard before any order adverse to him was to be passed. In the circumstances, the order dated 4.12.2000, whereby the pay of the petitioner has been reduced, is violative of the principles of natural justice.

6. For the above-referred reason, the petition deserves to be allowed. The order dated 4.12.2000 is quashed and set aside. It is directed that no amount shall be deducted from the salary of the petitioner and the petitioner shall be placed in the pay-scale in which he was before the impugned order was passed. Needles to say that it would be open to the authorities to rectify the mistake committed by the concerned officer, but

before rectification of the mistake, the government authorities should give hearing to the petitioner and only after hearing the petitioner and considering the case objectively, appropriate decision should be taken by the government.

The petition is allowed. Rule is made absolute to the above extent with no order as to costs.

(A.R. Dave, J.)

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